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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,114	11/13/2001	Tomoaki Nagano	B-4384 619300-5	3430
36716	7590	05/09/2006	EXAMINER	
LADAS & PARRY 5670 WILSHIRE BOULEVARD, SUITE 2100 LOS ANGELES, CA 90036-5679			POND, ROBERT M	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/991,114	<b>Applicant(s)</b> NAGANO ET AL.	
	<b>Examiner</b> Robert M. Pond	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 07 March 2006 has been entered.

### ***Response to Amendment***

The Applicant amended claims 1, 3, and 8-11, and canceled claim 7. Claim 6 was previously canceled. All pending claims 1-5 and 8-11 were examined in this non-final office action.

### ***Response to Arguments***

#### ***Pertaining to Rejection under 35 USC 102 in previous office action***

Applicant's arguments filed 07 March 2006 have been fully considered but they are not persuasive. Stefik teaches constituents of derivative digital works (e.g. text, audio, music). Stefik in view of Crabb teach motion as a constituent of a graphics character as cited below.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-4 and 7- 11 are rejected under 35 USC 103(a) as being unpatentable over Stefik (Paper #20050620, US 5,629,980) in view of Crabb (PTO-892, Item: U).**

Stefik teaches the creation or new digital works, creation of derivative digital works, editing digital works, managing and distributing digital works, and selling of digital works. Stefik discloses usage rights management of digital works (please note examiner's interpretation: creature data is a digital work) (please see at least abstract; col. 3, line 50 through col. 4, line 36). Stefik further discloses:

- *Registering digital content:* Inherent in Stefik are the structures necessary to permit a digital work creator to register the created digital work for distribution. For example, creating and storing created digital work in a repository (see at least Fig. 1 (101, 102); col. 7, lines 6-11).
- *Editing material:* a user creating a derivative (see at least col. 6, lines 10-12; col. 40, line 47 through col. 41, line 39).

- *Selling process*: selling original digital works or derivative works created and edited for purpose of creating a product item for presentation and selling (see at least col. 6, lines 1-20; col. 43, line 45 through col. 44, line 22; col. 44, line 23 through col. 49, line 39).
- *Digital works*: movies, music, video games (please note examiner's interpretation: still or animated creatures), audio recordings, text, pictures, books, documents (see at least col. 3, lines 51-61; col. 19, lines 50-55).
- *Combining editing data*: a requester uses the process to change the contents of the digital work as desired. Example by Stefik: it can select and duplicate parts of it; combine it with other information; or compute functions based on the information. This can amount to editing text, music, or pictures or taking whatever other steps are useful in creating a derivative work) (see col. 41, lines 7-13).

*Pertaining to system and apparatus claims 1-4 and 7-9*

Rejection of claims 1-4 and 7-9 is based on the same rationale as noted above.

Stefik teaches all the above as noted under the 103(a) rejection and teaches a system and method for creating, editing, and distributing digital works including, but not limited to movies, music (i.e. a constituent part), video games, audio recordings (i.e. a constituent part), text (i.e. a constituent part), pictures, books, and documents, but does not disclose representing at least one motion corresponding to at least one constituent of the computer graphics character data

item. Crabb teaches Magic Artist Studio software allowing users to create and animate 3-D art using software tools for the Mac or PC. Crabb teaches drawing, painting, and animating digital creatures. Therefore it would have been obvious to modify the system and method of Stefik to represent at least one motion, the motion corresponding to at least one constituent part of the computer graphics character data item as taught by Crabb, in order to provide content creators the ability to create digital works using motion, text, audio and/or music.

- 2. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Stefik (Paper #20050620, US 5,629,980) and Crabb (PTO-892, Item: U), as applied to claim 1, in view of Official Notice (Paper #20050620, admitted prior are regarding old and well-known).**

Stefik and Crabb teach all the above as noted under the 103(a) rejection and teach a system and method for creating, editing, and distributing digital works including, but not limited to, movies, music, video games, audio recordings, text, pictures, books, and documents, and further teaches or suggests still or animated characters and using motion as a constituent. Stefik and Crabb teach 3-D animation, however, do not specifically disclose creature data in 2-dimensions. The Examiner takes the position that it is old and well-known in the art to depict things in 2-dimensional and/or 3-dimensional renderings. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Stefik and Crabb to disclose digital works in 2-

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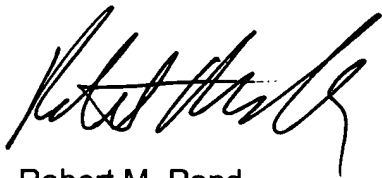
dimension and/or 3-dimensions as taught by Official Notice, in order to fully disclose old and well-known prior art teachings, and thereby attract digital works creators wanting to distribute 2-dimensional and/or 3-dimensional digital works.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Yogesh Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Robert M. Pond', with a stylized flourish at the end.

Robert M. Pond  
Primary Examiner  
May 8, 2006